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09/863,148	05/22/2001	John A.C. Woodley	6208-21	1065

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EXAMINER	
GRAHAM, CLEMENT B	
ART UNIT	**PAPER NUMBER**
3692	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/863,148	WOODLEY, JOHN A.C.	
	Examiner	Art Unit	
	Clement B. Graham	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 May 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-55* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. **Claims 1-55 remained pending.**

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 24, 39, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Applicant's claims are directed to an algorithm. Specifically, claim 1, 24, 39 recites "parsing", "forming a models, combining models providing payout", however these steps are mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, for example) and abstract ideas without a practical application are found to be non-statutory subject matter. Therefore, Applicant's claims are non-statutory as they do not produce a useful, concrete and tangible result.

Claim Rejections - 35 USC § 112

3 The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 24, 39, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, Claims 1, 24, 39, recites the words ["forming a model portfolio of said exposure, said model representing cash flows and forming a hedging portfolio for said exposure said hedging portfolio representing cash flows,"].

However a portfolio models do not consist or represent cash flows, it is consistent with "positions" and cash flows is only in present when a trade occurs.

Further when his language fails to distinctly claim Applicant's invention because the scope of the claim is unclear. Moreover the specification fails to clarify, the meaning of the limitation. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-55, are rejected under 35 U.S.C. 103(a) as being unpatentable Weber et al (Hereinafter Weber U.S Pub: 2004/0186803 in view of Wallman U.S Patent NO: 6, 360, 210.

As per claim 1, Weber discloses a method by which an entity manages an exposure to an economic risk associated with a commodity, comprising the steps of forming a model portfolio of said exposure ("i.e proxy portfolio" see column 2 para0013), said model representing cash flows;
forming a hedging portfolio for said exposure (see column 2 para0013) said hedging portfolio representing cash flows, (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

Weber fail to explicitly teach periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows.

However Wallman discloses the present invention solves this problem by combining a graphical or other user interface accessible by the investor over the Internet or through an intermediary with a computational pricing mechanism that examines an investor's current portfolio's expected risk, prices the expected risk, and transfers to a third party all or some of either that precise expected portfolio risk or some other more general or different risk, such as overall market risk as reflected in an index like the S&P 500. The third party may be the system operator. The transfer is in exchange for consideration, which can be either cash, other property or part of the opportunity cost forgone in connection with the portfolio. (see column 5 lines 64-67 and column 6 lines 1-8 and column 9 lines 50-59).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Weber to include periodically combining said cash flows of said model portfolio and said hedging portfolio and providing a payout based on said combined cash flows taught by Wallman in order to manage portfolio of investment and in which an investor can limit the risk inherent in portfolio.

As per claim 2, Weber discloses , wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with actual contracts. (see column 2 para0013) said hedging portfolio representing cash flows, (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 3, Weber discloses wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with proxy contracts. (see column 2 para0013) said hedging portfolio representing cash flows, (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 4, Weber discloses wherein the step of forming a model portfolio includes the step of forming a model portfolio of said exposure with actual contracts and proxy contracts. (see column 2 para0013) said hedging portfolio representing cash flows, (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 5, Weber discloses wherein the step of forming a hedging portfolio includes the steps of receiving at least one hedging transaction executed by said entity; modeling said at least one hedging transaction(see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 6, Weber discloses wherein said step of forming a model portfolio comprises the step of having an institution record said exposure; and wherein the step of forming a hedging portfolio includes the step of: having said institution execute at least one hedging transaction. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 7, Weber discloses wherein said step of recording includes the step of executing at least one transaction between said entity and said institution. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 8, Weber discloses wherein said at least one transaction includes an actual transaction. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 9, Weber discloses wherein said at least one transaction includes a proxy transaction. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 10, Weber discloses further comprising the step of exchanging said combined cash flows between said entity and said institution. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 11, Weber discloses wherein the step of exchanging said combined cash flows includes the steps of paying to said entity positive combined cash flows; and receiving from said entity negative combined cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 12, Weber discloses wherein the step of exchanging said combined cash flows includes the step of having said institution retain any loss of cash flows resulting from a default. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 13, Weber discloses wherein the step of exchanging said combined cash flows includes the step of having said institution retain at least a portion of any pooling profits. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 14, Weber discloses further comprising the step of receiving a benchmark from said entity, said benchmark representing cash flows; and wherein the step of providing a payout based on said combined cash flows includes the step of providing a payout based on a difference between said combined cash flows and said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 15, Weber discloses wherein said step of providing a payout based on a difference between said combined cash flows and said benchmark cash flows includes the steps of providing a payment to said entity if said combined cash flows is

less than said benchmark cash flows, and receiving a payment from said entity if said combined cash flows is greater than said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 16, Weber discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 17, Weber discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 18, Weber discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 19, Weber discloses wherein said model portfolio is periodically updated. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 20, Weber discloses wherein said hedge is periodically updated. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 21, Weber discloses wherein said cash flows of said model portfolio and said hedging portfolio are combined daily. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 22, Weber discloses wherein said commodity is electricity. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 23, Weber discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 24, Weber discloses a system by which an entity manages a portfolio of exposures to an economic risk associated with a commodity, comprising:

a portfolio modeling engine, said portfolio modeling engine receiving said portfolio of exposures from said entity and forming a model portfolio representing cash flows (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15)
a hedging modeling engine for receiving at least one hedging transaction, said hedging modeling engine forming a hedging portfolio representing cash flows based on said at least one hedging transaction and said model portfolio(see column 2 para0013) a tracking portfolio generator, said tracking portfolio generator receiving said model portfolio and said hedging portfolio and combining said cash flows of said model portfolio and said hedging portfolio (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

Weber fail to explicitly teach combining said cash flows of said model portfolio and said hedging portfolio and a payout manager, said payout manager providing a payout based on said combined cash flows.

However Wallman discloses the present invention solves this problem by combining a graphical or other user interface accessible by the investor over the Internet or through an intermediary with a computational pricing mechanism that examines an investor's current portfolio's expected risk, prices the expected risk, and transfers to a third party all or some of either that precise expected portfolio risk or some other more general or different risk, such as overall market risk as reflected in an index like the S&P 500. The third party may be the system operator. The transfer is in exchange for consideration, which can be either cash, other property or part of the opportunity cost forgone in connection with the portfolio. (see column 5 lines 64-67 and column 6 lines 1-8 and column 9 lines 50-59).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Weber to include combining said cash flows of said model portfolio and said hedging portfolio and a payout manager, said payout manager providing a payout based on said combined cash flows taught by Wallman in order to manage portfolio of investment and in which an investor can limit the risk inherent in portfolio.

As per claim 25, Weber discloses wherein said model is formed with actual contracts. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 26, Weber discloses wherein said model is formed with proxy contracts. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 27, Weber discloses wherein said model is formed with actual contracts and proxy contracts. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 28, Weber discloses wherein said hedging modeling engine forms said hedging portfolio by receiving at least one hedging transaction executed by said entity and modeling said at least one hedging transaction. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 29, Weber discloses wherein a benchmark is received from said entity, said benchmark representing cash flows and wherein said payout is based on a difference between said combined cash flows and said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 30, Weber discloses wherein said payout is a payment to said entity if said combined cash flows is less than said benchmark cash flows and said payout is a payment from said entity if said combined cash flows is greater than said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 31, Weber discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 32, Weber discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15)

As per claim 33, Weber discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15)

As per claim 34, Weber discloses wherein said model portfolio is periodically updated. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 35, Weber discloses wherein said hedging portfolio is periodically updated. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 36, Weber discloses wherein said cash flows of said model and said hedge are combined daily. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 37, Weber discloses wherein said commodity is electricity. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 38, Weber discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 39, Weber discloses a system by which an entity manages a portfolio of exposures to an economic risk associated with a commodity, comprising:
a transaction manager, said transaction manager executing at least one transaction between an institution and said entity, said at least one transaction forming a model portfolio ("i.e proxy portfolio" see column 2 para0013) representing cash flows (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15)
a hedging module for executing at least one hedging transaction, said at least one hedging transaction forming a hedging portfolio representing cash flows;
a tracking portfolio generator, said tracking portfolio generator receiving said model portfolio and said hedging portfolio (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

Weber fail to explicitly teach and combining said cash flows of said model portfolio and said hedging portfolio and payout manager, said payout manager providing a payout based on said combined cash flows.

However Wallman discloses these and other objectives of the invention are met by providing a system for creating and managing securities that evaluates the cash flows of underlying securities collateralized by mortgage obligations (the "collateral") that are to be restructured into new securities. The underlying securities to be restructured can be either mortgage securities that qualify ad collateral for a CMO/REMIC or securities that were issued by an existing CMO/REMIC. The system determines the cash flows based on the Original Term of the underlying securities, as well as the Remaining Term and Loan Age, Gross Coupon, Net Coupon, Settlement Date, Issue Date, Payment Dates, Present Value, and various other mortgage loan characteristics. (see column 3 lines 41-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Weber to include combining said cash flows of said model portfolio and said hedging portfolio and payout manager, said payout manager providing a payout based on said combined cash flows taught by Wallman in order to manage securities that are collateralized by mortgage obligations.

As per claim 40, Weber discloses wherein said at least one transaction is an actual transaction. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 41, Weber discloses wherein said at least one transaction is a proxy transaction. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 42, Weber discloses wherein a benchmark is received from said entity, said benchmark representing cash flows and wherein said payout is based on a difference between said combined cash flows and said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 43, Weber discloses wherein said payout is a payment to said entity if said combined cash flows is less than said benchmark cash flows and said payout is a payment from said entity if said combined cash flows is greater than said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15).

As per claim 44, Weber discloses wherein said payment is a percentage of said difference between said combined cash flows and said benchmark cash flows. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 45, Weber discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is within a band. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15)

As per claim 46, Weber discloses wherein said payment is provided if said difference between said combined cash flows and said benchmark cash flows is outside a band. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15)

As per claim 47, Weber discloses wherein said model portfolio is periodically updated. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 48, Weber discloses wherein said hedging portfolio is periodically updated. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 49, Weber discloses wherein said cash flows of said model and said hedge are combined daily. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 50, Weber discloses further comprising a cash flow manager for exchanging said combined cash flows between said entity and said institution. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 51, Weber discloses wherein said positive combined cash flows is paid to said entity and said negative combined cash flows is received from said entity. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 52, Weber discloses wherein said institution retains any loss of cash flows resulting from a default. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 53, Weber discloses said institution retains at least a portion of any pooling profits. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 54, Weber discloses wherein said commodity is electricity. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

As per claim 55, Weber discloses wherein said commodity is selected from the group including natural gas, copper, zinc, interest rates, oil products, bandwidth and foreign exchange. (see Fig: 4-5 and column 6 para 0054 and column 12 para 0108 and claim 15) .

Conclusion

RESPONSE TO ARGUMENTS

7. In response to Applicant's arguments filed 5/4/2007 has been fully considered but they are moot in view of new grounds of rejections.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG
July 12, 2007

FRANTZY POINVIL
PRIMARY EXAMINER
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